

LABOUR DEPARTMENT

The 24th July, 1987

No. 9/2/87-5Lab./5776.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of (i) Director Panchayat, Haryana, Sector 9, Chandigarh, (ii) Sarpanch, Gram Panchayat Sampla, (iii) Block Development and Panchayat Officer, Sampla, (iv) Executive Engineer, Panchayat Samiti, Rohtak.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 183 of 1985

between

SHRI SURAJ BHAN APPLICANT AND THE MANAGEMENT, OF SAMPLA (i) DIRECTOR, PANCHAYATS, HARYANA, SECTOR-9, CHANDIGARH; (ii) SARPANCH, GRAM PANCHAYAT, SAMPLA, (iii) BLOCK DEVELOPMENT AND PANCHAYAT OFFICER, SAMPLA, (iv) EXECUTIVE ENGINEER, PANCHAYAT SAMITI, ROHTAK.

Present:

Shri S.N. Vats, A.R., for the applicant.

Shri M.C. Bhardwaj, A.R., for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute between the applicant Shri Suraj Bhan and the managements of (i) Director Panchayats, Haryana, Sector-7, Chandigarh, (ii) Sarpanch, Gram Panchayat, Sampla, (iii) Block Development and Panchayats Officer, Sampla, (iv) Executive Engineer, Panchayat Samiti, Rohtak, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 44623—30, dated 5th November, 1985 :—

“Whether the termination of services of Shri Suraj Bhan is justified and in order ? If not, to what relief is he entitled ?”

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Peon-cum-Chowkidar since 3rd April, 1975 and once earlier also his services were terminated at which he moved the appropriate authority and the Labour Court, Rohtak, ordered for his reinstatement through its award and he was reinstated and again his services were terminated on 1st August, 1983 without any lawful excuse and that his termination falls squarely within the ambit of terms “retrenchment” as given in section 2(oo) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) and since the same was brought about without complying with the mandatory provisions of section 25F of the said Act, his termination was illegal and unlawful. So, he has claimed reinstatement with continuity of service and full back wages.

3. There are four respondents in this case. Two separate replies have been filed, one by respondent number 2 represented by Shri M.C. Bhardwaj and the other by respondents number 1, 3 and 4 represented by the ADA. The refrain of the reply filed by all the respondents is the same. Preliminary objections taken are that this reference is bad in law as no demand notice was raised upon the Gram Panchayat, Sampla, and that the Sarpanch, Gram Panchayat is not a body corporate and that no relief can be claimed against him and that the respondent is not an “industry” as defined in section 2(j) of the said Act and that the petitioner is estopped from raising the present dispute in view of the settlement, dated 20th March, 1982 and further that the petitioner is not a “workman” and was simply a part-time employee. On merits, it is admitted that *ex parte* award was obtained by the petitioner from the Labour Court, Rohtak and that there was no Gram Panchayat in the month of March, 1975 as the said area was under the Notified Area Committee and that the petitioner has settled his claim with the Gram Panchayat,—vide settlement, dated 20th March, 1982 and as such, there was no question of his being reinstated. It is further alleged that there was acute party faction in the Gram Panchayat during the period and the then Sarpanch Shri Raghubir Singh did many irregularities, for which, he was placed under suspension and the claimant was his favourite and that there was no Gram Panchayat in the month of June 1983, which was re-constituted on 20th July, 1983. It is also alleged that the petitioner was employed from 20th July, 1983 to 31st July, 1983 on daily wages, for which, he was paid. On the basis of allegations made at eve, it is submitted that the provisions of section 25F of the said Act are not attracted in this case.

4. On the pleadings of the parties, the following issues were settled for decision by me on 13th May, 1986 :—

(1) Whether the reference is bad in law ? OPR.

- (2) Whether the respondent Gram Panchayat is not an "industry" as defined in section 2(j) of the Industrial Disputes Act, 1947 ? OPR
- (3) Whether the respondent Gram Panchayat has not been properly arrayed in this case ? OPR.
- (4) Whether the workman is estopped from raising the present dispute in view of the settlement, dated 20th March, 1982 ? OPR.
- (5) Whether the petitioner is not a workman ?
- (6) Whether the petitioner was appointed without any authority ? If so, to what effect ?
- (7) As per terms of reference.

5. In support of his case, the petitioner appeared as WW-1 and the respondent examined MW-1, present Sarpanch Shri Daryav. Singh and MW-2 Ex-Sarpanch Shri Mange Ram.

6. Learned Authorised Representatives of the parties were heard. My findings in the issues framed are as below :—

Issue No. 1:

7. The learned Authorised Representative of the respondent was luke-warm in pressing this issue, because a dispute can be referred to the Labour Court by the appropriate Government even without the demand notice being raised by the aggrieved employee. So, this issue was not pressed on behalf of the respondent.

Issue No. 3:

8. Respondent number 2 has been arrayed through Sarpanch, Gram Panchayat, Sampla. The contention of Shri M.C. Bhardwaj was that Gram Panchayat should have been impleaded through Sarpanch. The objection is too technical to merit recognition. So, this issue is answered against the respondent.

Issue No. 5:

9. This issue as it is worded was not opposed by the learned Authorised Representative of the respondent, because looking to the nature of the duties allegedly being performed by the petitioner, he squarely falls within the ambit of term "workman" as defined in section 2(s) of the said Act.

Issue No. 6:

10. This issue does not arise from the pleadings of the parties. So, the same is redundant and does not need decision.

Issue No. 2:

11. On this issue on behalf of the respondent, strong reliance has been placed upon 1968 (I) LLJ page 222 between Gram Panchayat, Sawargaon and Jamnadas Raghunath Prasad. This authority was under section 41 of the Central Provinces and Berar Industrial Disputes Settlement Act. The observations made in this authority are peripheral in nature and have no direct bearing upon the controversy in hand. On the other hand, on behalf of the petitioner my attention has been drawn to 1971 (I) LLJ 508 between Dhari Gram Panchayat and Shri Brahad Saurashtra Safai Kamdar Mandal, Rajkot. In this authority their Lordships of the Hon'ble Supreme Court of India held that the conservancy and Sanitary activity carried on by the Panchayat would be covered by the definition of the term "industry"—such activity being a material service and a public utility service. So, there is no scope for dispute that the respondent Gram Panchayat is an "industry" as defined in section 2(j) of the Industrial Disputes Act, 1947 and as such, this issue is answered against the respondents.

Issue No. 4:

12. The petitioner has placed on record a photocopy of the award Ex. W-1 passed by the Labour Court, Rohtak, on 8th December, 1981 and published in the Haryana Govt. Gazette on 2nd March, 1982. Therein, the claim of the petitioner was that he remained in the employment of the respondent Gram Panchayat till 13th July, 1979. The Court passed an *ex parte* award awarding him wages till that date and also ordered for his reinstatement. Thereunder, the petitioner was paid a sum of Rs. 925.50,—vide receipt Ex. MW-2/1 on 20th March, 1982. He was paid wages from April, 1979 to 13th July, 1979. There is a recital in the receipt that now, nothing is due to the petitioner from the respondent Gram Panchayat and that the petitioner also relinquished his right of reinstatement. In view of this recital in the receipt, the petitioner is estopped from raising the present dispute by his acts and conduct. So, this issue is answered against the petitioner.

Issue No. 7:

13. The petitioner seems to be completely confused about his claim. In the demand notice received along with the order of reference, it is alleged that the petitioner was appointed on 3rd April, 1975 and that for the second time his services were terminated on 1st August, 1983. The petitioner when he appeared in the Court as WW-1 stated that he was employed in the year 1979 and his services were terminated again for the second time on 31st July, 1982. He further admitted that throughout his service tenure he has been paid wages for 12 months only from 1st June, 1981 to May, 1982. He denied settlement with the Gram Panchayat though he admitted the receipt of Rs. 925 from the said Panchayat. The respondent has also placed on record another receipt from the petitioner, dated 31st July, 1983,—vide which he was paid wages from 20th July, 1983

to 31st July 1983 at Rs. 13 per day. So, it seems that the petitioner was not regular employee of the Gram Panchayat and that he was favourite of Raghubir Singh, Ex. Sarpanch. So, no right of reinstatement is available to the petitioner. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 3rd June, 1987.

B.P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hisar.

Endst. No. 183-85/2088, dated the 13th February, 1987

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

B.P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hisar.

The 24th/28th July, 1987

No. 9/1/87-6 Lab./5581.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s K. K. & Co. 212, Industrial Area, Panchkula (Ambala).

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Ref. No. 18 of 1986

SHRI MADAN LAL, WORKMAN AND THE MANAGEMENT OF MESSRS K. K. & CO. 212,
INDUSTRIAL AREA, PANCHKULA (AMBALA)

Present :

None, for the workman.

Shri R. L. Chopra, for the respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of the powers conferred, *vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred the dispute between Shri Madan Lal, workman and Messrs K. K. & Co. 212, Industrial Area, Panchkula, to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Madan Lal s/o Sh. Chanderka Prashad is just and correct ?
If not, to what relief is he entitled ?”

Workman alleged that he had been employed as a Turner for the last 2½ years in the service of respondent-management. His services were terminated on 27th July, 1985 by Shri Vipin Kaushal, partner of the Company by the oral orders in violation of the provisions of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that management never terminated the services of the workman. The signature on the demand notice and statement of claim are of different person, so the reference is liable to be rejected. In fact workman absented voluntarily and he never reported on duty despite of best efforts. Efforts were made before the Conciliation Officer from the side of management to settle the dispute amicably but workman did not co-operate so the reference be answered against the workman.

On the pleadings of the parties issues were framed. Reference was fixed for workman's evidence for today but neither workman nor his Authorised Representative appeared, while respondent-management was represented by Shri R. L. Chopra, so this reference is dismissed in default.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Dated, the 2nd June, 1987.

Endst. No. 1232 dated, 8th June, 1987

Forwarded (Four Copies) to the Financial Commissioner & Secretary to Govt., Haryana Labour & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court Ambala,

The 24th July, 1987

No. 9/1/87-6Lab./5586.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/S. K. K. & Co. 212 Industrial Area, Panchkula (Ambala).

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 86 of 1986
Misc. No. 4 of 1987

SHRI SATINDER KUMAR S/O SHRI BILAS RAM VILLAGE KUNDI P. O. PANCHKULA (AMBALA)
AND THE MANAGEMENT OF THE MESSRS K. K. & CO. 212 INDUSTRIAL AREA PANCH-
KULA, (AMBALA)

Present :—

None for workman.

Shri R. L. Chopra for respoent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Satinder Kumar and Mesers K. K. and Co. 212, Industrial Area Panchkula to this Court. The terms of the reference are as under.—

“Whether termination of services of workman is just & correct or he himself resigned from his job, if so to what effect?”

Workman alleged that he had been working as Acid Dipper for the last three years. His services were terminated on 10th July, 1986 in violation of provisions of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management contestd the dispute and contended that workman was appointed w.e.f. 8th July, 1983. He worked only up to 10th July, 1986 thereafter ; he resigned and got his all the dues up to date. He is not entitled to relief claimed for.

On the pleadings of the parties issues were framed. Reference was fixed for workman evidence for today but neither workman nor his Authorised Representative appeared, while 'respondent management was represented by Shri R. L. Chopra, so the reference is dismissed in default.

Dated : 2nd June, 1987

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala

Endst. No. 1233, Dated, 8th June, 1987.

Forwarded (four copies) to the Financial Commissioner & Secretary to Govt., Haryana, Labour, & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.